IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WA.No. 2319 of 2007

AGAINST THE JUDGEMENT IN OP.24355/2001 Dated 06/07/2007
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APPELLANT/RESPONDENT NO.1:

M.NARAYANAN CHETTIAR,
SUNI BHAVAN,
ARUVIKKARA P.O,
THIRUVANANTHAPURAM - 695 564.

BY ADV. SRI.B.RAGUNATHAN
SRI.V.V.MATHEW

RESPONDENTS/PETITIONERS & RESPONDENTS 2 TO 5:
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1. THE PRESIDENT,
ARUVIKKARA FARMER'S SERVICE CO-OPERATIVE BANK LTD.NO.603,
ARUVIKKARA P.O,
THIRUVANANTHAPURAM - 695 564

2. ARUVIKKARA FARMER'S SERVICE CO-OPERATIVE BANK LTD.NO.603,
ARUVIKKARA P.O,
THIRUVANANTHAPURAM - 695 564,
REPRESENTED BY ITS MANAGING DIRECTOR.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
VANCHIYOOR P.O,
THIRUVANANTHAPURAM-695035

4. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM - 695 001.

5. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

6. KERALA LOK AYUKTA,
THIRUVANANTHAPURAM - 695 033.

R1 & R2 BY SRI.M.K.DAMODARAN (SR.) &
SRI.S.RAMESH
R3 TO R5 BY SR.GOVERNMENT PLEADER SMT.K.MEERA
R6 BY ADV. SRI.K.JAJU BABU

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No.2319 of 2007

Dated, this the 7th day of December, 2007

JUDGMENT

H.L.Dattu, C.J.

The first respondent in W.P.(C) No.24355 of 2001 has filed this writ appeal questioning the correctness or otherwise of the orders passed by the learned Single Judge in the aforesaid writ petition, dated 6th July, 2007. The learned Single Judge, following the observations made in the case of *State of Kerala* v. *Bernard* reported in 2002 (3) KLT 254, has stated that the Lok Ayukta has no jurisdiction to pass the impugned order (Ext.P8) and accordingly has allowed the Writ Petition.

2. In our opinion, for the purpose of disposal of this writ appeal, we need not have to decide the powers of the Kerala Lok Ayukta in entertaining a petition for payment of certain service benefits of an employee of a co-operative society/co-operative bank. That issue may be agitated in a better case.

3. The appellant before us was working as Town Manager in the Aruvikkara Farmer's Service Co-operative Bank Limited ('the Bank' for short). While in service, in contemplation of a departmental enquiry for certain alleged acts of omissions and commissions said to have been committed by him, he was kept under suspension by the Bank by its order dated 27.10.1997. On attaining the age of superannuation, it is the case of the appellant, that he retired from service on 31.3.1998.

4. The Bank pursuant to the order of suspension passed, had appointed an enquiry officer, to enquire into the alleged acts of misconduct said

to have been committed by the appellant while he was in service. The enquiry officer after holding an enquiry has submitted a report to the Bank. In the said report, the enquiry officer has given a clean chit to the appellant.

5. The Bank has not accepted the enquiry officer's report. Therefore, they have appointed a sub committee to look into the correctness or otherwise of the report of the enquiry officer and also to suggest whether any further proceedings requires to be taken by the Bank against the appellant.

6. When the matter was pending before the sub-committee of the Bank, the appellant had approached the Kerala Lok Ayukta, Thiruvananthapuram, with a complaint that the Bank has not paid the D.C.R.G. amount payable to him after he retired from service. The Kerala Lok Ayukta has passed an order (Ext.P8). Correctness or otherwise of the said order was questioned by the Bank by filing the writ petition before this Court.

7. Since the Bank has not taken a decision on the report of the enquiry officer, it may not be proper for us to take any decision with regard to payment of DCRG amount to the appellant. The same depends on the final orders that may be passed by the sub-committee of the Bank, before whom the enquiry report of the enquiry officer is pending for consideration. In view of that, in our opinion, if a direction is issued to the Bank to take a decision on the report of the enquiry officer at the earliest, no prejudice will be caused either to the appellant or to any other respondents.

8. In view of the above, without going into the powers of the Lok Ayukta to decide on a complaint filed for payment of the service benefits of the employees of a co-operative society, this writ appeal is disposed of as under:

ORDER

i) The sub-committee of the Bank shall take a decision on the report of the enquiry officer appointed to enquire into the alleged acts of misconduct of the appellant as expeditiously as possible, at any rate within three months from the date of receipt of a copy of this Court's order.

ii) If the Bank accepts the report of the enquiry officer, then the Bank shall settle the amounts payable to the appellant within a reasonable time.

iii) If for any reason the Bank does not accept the report of the enquiry officer, the same shall be communicated to the appellant.

iv) If for any reason the appellant is aggrieved by the said order he is at liberty to question the same before appropriate forum.

9. With these observations and directions, the writ appeal is disposed of.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

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